

GCE

Law

Advanced Subsidiary GCE

Unit **G151**: English Legal System

Mark Scheme for June 2013

OCR (Oxford Cambridge and RSA) is a leading UK awarding body, providing a wide range of qualifications to meet the needs of candidates of all ages and abilities. OCR qualifications include AS/A Levels, Diplomas, GCSEs, Cambridge Nationals, Cambridge Technicals, Functional Skills, Key Skills, Entry Level qualifications, NVQs and vocational qualifications in areas such as IT, business, languages, teaching/training, administration and secretarial skills.

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This mark scheme is published as an aid to teachers and students, to indicate the requirements of the examination. It shows the basis on which marks were awarded by examiners. It does not indicate the details of the discussions which took place at an examiners' meeting before marking commenced.













All examiners are instructed that alternative correct answers and unexpected approaches in candidates' scripts must be given marks that fairly reflect the relevant knowledge and skills demonstrated.

Mark schemes should be read in conjunction with the published question papers and the report on the examination.

OCR will not enter into any discussion or correspondence in connection with this mark scheme.

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Annotations

Annotation	Meaning
	correct
	sort of
	not relevant
	unclear
	repetition
	not answered question
	point
	developed point
	well-developed point
	very well-developed point
	point has been noted, but no credit has been given / blank page has been checked for response
	applied point

Subject-specific Marking Instructions

Before you commence **marking each question** you must ensure that you are familiar with the following:

- the requirements of the specification
- these instructions
- the exam questions (found in the exam paper which will have been emailed to you along with this document)
- levels of assessment criteria *₁ (found in the 'Levels of Assessment' grid at the back of this document)
- question specific indicative content given in the 'Answer' column*₂
- question specific guidance given in 'Guidance' column*₃
- the 'practice' scripts*₄ provided in Scoris and accompanying commentaries

- *₁ The levels of assessment criteria (found in the 'Levels of Assessment' grid) reflect the expectation of achievement for each Assessment Objective at every level.
- *₂ The indicative content in the 'Answer' column provides details of points that candidates **may** be likely to make. It is **not** exhaustive or prescriptive and points not included in the indicative content, but which are valid within the context of the question, are to be credited. Similarly, it is possible for candidates to achieve top level marks without citing all the points suggested in the scheme.
- *₃ Included in the 'Guidance' column are the number of marks available for each assessment objective contained within the question. It also includes 'characteristics' which a response in a particular level is **likely** to demonstrate. For example, "a level 4 response is likely to include accurate reference to all 5 stages of x with supporting detail and an accurate link to the source". In some instances an answer may not display all of the 'characteristics' detailed for a level but may still achieve the level nonetheless.
- *₄ The 'practice' scripts are live scripts which have been chosen by the Principal Examiner (and senior examining team). These scripts will represent most types of responses which you will encounter. The marks awarded to them and accompanying commentary (which you can see by changing the view to 'definitive marks') will demonstrate how the levels of assessment criteria and marking guidance should be applied.

As already stated, neither the indicative content, 'characteristics' or practice scripts are prescriptive and/or exhaustive. It is imperative that you remember at all times that a response which:

- differs from examples within the practice scripts; or,
- includes valid points not listed within the indicative content; or,
- does not demonstrate the 'characteristics' for a level

may still achieve the same level and mark as a response which does all or some of this. Where you consider this to be the case you should discuss the candidate's response with your supervisor to ensure consistent application of the mark scheme.

Awarding Assessment Objectives 1 and 2

To award the level for the AO1 or AO2 (some questions may contain both AO1 and AO2 marks) use the levels of assessment criteria **and** the guidance contained within the mark scheme to establish which level the response achieves. As per point 10 of the above marking instructions, when determining which **level** to award start at the **highest*** level and work down until you reach the level that matches the answer.

Once you have established the correct level to award to the response you need to determine the mark within the level. The marks available for each level differ between questions. Details of how many marks are available per level are provided in the Guidance column. Where there is more than one mark available within a level you will need to assess where the response 'sits' within that level. Guidance on how to award marks within a level is provided in point 10 of the above marking instructions, with the key point being that you start at the **middle*** of each level and work outwards until you reach the **mark** that the response achieves.

Answers, which contain no relevant material at all, should receive no marks.

Aw * Remember: when awarding the level you work from top downwards, when awarding the mark you work from the middle outwards.

Rubric**What to do for the questions the candidate has not answered?**

The rubric for G151 instructs candidates to answer **four** questions (both parts) from either:

- 2 x Section A + 2 x Section B
- 3 x Section A + 1 x Section B

For the questions the candidate has not answered you should record NR (no response) in the mark column on the right-hand side of the screen. Do **not** record a 0.

What to do for the candidate who has not complied with the rubric either by answering more than four questions or by answering more or less Section A or B questions than is permitted? *This is a very rare occurrence but must be picked up to ensure the candidate is not unfairly advantaged or disadvantaged.*

Mark all questions the candidate has answered. Then work out the combination of questions which gives them the highest mark whilst conforming to the rubric. Do **not** 'violate' the rubric and do **not** submit the script. Send your supervisor the script number and combination of questions you are proposing for the script to give it the highest mark which conforms to the rubric. Your supervisor will then view the script in your 'Open' items and will check and confirm the correct combination for this candidate.

Once your team leader has confirmed the correct combination you will need to amend the marks on the script to ensure the candidate receives the correct overall mark. To do this reopen the script and for the response(s) which are not included in the correct combination change the marks to NR (no response). Do **not** remove the annotations – the annotations will demonstrate that the response(s) has been marked but is not included in the correct combination.

Once you have submitted this script, contact your supervisor. Your supervisor will then double check in your closed items that you have correctly processed this script.

Blank pages and missed answers

Sometimes candidates will skip a few pages in their answer booklet and then continue their answer. To be sure you have not missed any candidate response before you submit each script you must review the whole script and check every page of the script and annotate any blank pages with:

SEEN

This will demonstrate that every page of a script has been checked.

You must also check any additional pages eg A, A1 etc, which the candidate has chosen to use. Before you begin marking, use the Linking Tool to 'link' any additional page(s) to the relevant question(s) and mark the response as normal.

Annotating and awarding marks

All part (a) questions only have AO1 marks available so credit cannot be given for any AO2 points. Any AO2 points should be marked as not relevant. The main discriminator between the levels will be the level of detail and the level of understanding demonstrated in the answer.

Section A part (b) of questions require discussion. Each point should be annotated as follows:

P

for point = 1 mark

DEV

for developed point = 2 marks

E

for a well-developed (extended) point = 3 marks

+

for a very well-developed (extended) point = 4 marks (be careful not to use this where a response is merely restated the same point)

It is important to ensure that the discussion is based on the question asked.

If there are only simple points, no matter how many points are made, a maximum of top Level 2 (5 marks) for AO2 can be awarded as if there is no development the answer does not meet the descriptor for Level 3.

If there are only developed points and no well-developed points only top Level 3 marks (7 marks) can be awarded for AO2 as such an answer would not meet the criteria for Level 4.

Section B part (b) of questions are marked differently as these questions require application. Identification of a relevant point should be annotated as follows:

P for a point = 1 mark

APP for a point applied to the situation = 2 mark

If there is no application but relevant points have been identified only top Level 2 marks (5 marks) for AO2 can be awarded as the answer does not meet the descriptor for Level 3.

Question		Answer	Marks	Guidance											
1	(a)	<p>Potential answers may:</p> <p>Assessment Objective 1 – Knowledge and understanding</p> <p>Demonstrate knowledge of the Access to Justice Act 1999. and the Legal Aid, Sentencing and Punishment of Offenders Act 2012</p> <p>Describe the availability of publicly funded help and representation in civil disputes:</p> <ul style="list-style-type: none">• Levels of service include: Legal help which is limited to advice, Help at court – preparing the case, Family help and Legal Representation• Means tested on disposable capital and disposable income• Merits test is based on the likelihood of success and the amount of damages likely to be awarded and the conduct of the parties• There are priorities for funding as there is a finite fund which is decreasing each year• Many matters are excluded eg personal injury, wills, boundary disputes, defamation and divorce unless there is domestic violence• No funding is available for Small claims (Limit changed from £5000 to £10000 April 2013)• It is also not available for tribunals except for mental health• This area has been under reform with fewer types of case becoming eligible <p>Describe conditional fee agreement:</p> <ul style="list-style-type: none">• Developed to help people to deal with the risk of taking a case to court as costs are uncertain and there is always a risk of losing the case and because various matters were no longer qualifying for legal aid• The solicitor and client agree on a fee which would normally be charged for a particular case• Success fee is agreed up to 100% of the normal fee which is added to the normal fee if the case is won but cannot exceed 25% of damages• If case is lost solicitor gets nothing unless covered by after the event insurance• Success fee can no longer be ordered to be paid by the losing party since	18	<table><tr><th>AO1 Level</th><th>AO1 Marks</th></tr><tr><td>4</td><td>15–18</td></tr><tr><td>3</td><td>11–14</td></tr><tr><td>2</td><td>6–10</td></tr><tr><td>1</td><td>1–5</td></tr></table> <p>Responses will be unlikely to achieve the following without:</p> <p>Level 4 – a detailed description of civil funding and conditional fee agreements</p> <p>Level 3 – an adequate description of civil funding and conditional fee agreements or a good description of one accompanied by a limited description of the other. If only one area is covered it is not possible to award more than top Level 2/bottom Level 3 marks depending on the quality of the answer. An answer on only half the question would have to be very detailed to merit a Level 3 mark.</p> <p>Level 1 – a very limited description</p> <p>Credit should be given for the law before April 2013 as it is within the 12 month specification rule. Marks should be allocated according to the level of detail. Lists without any description will attract limited credit.</p>	AO1 Level	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5	
AO1 Level	AO1 Marks														
4	15–18														
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Question			Answer	Marks	Guidance
			<p>April 2013 Insurance is taken out to protect against paying costs of other side if case is lost. This premium can no longer be claimed from the losing party since April 2013.</p> <p>Credit any other relevant point(s).</p>		

Question			Answer	Marks	Guidance										
	(b)*		<p>Potential answers may:</p> <p>Assessment Objective 2 – Analysis, evaluation and application</p> <p>Discuss whether the present funding criteria provide access to justice</p> <ul style="list-style-type: none">As it is a finite fund – where there is a limited budget it has to be rationed so that many people find they cannot get funding even if they are eligible under the very tight financial limits they cannot get any access to justiceEligibility levels for legal funding are very low so that only the poorest have access to justice, those of even a moderate income or homeowners do not have such accessThere are not enough providers of publicly funded services in certain parts of the country leading to advice deserts. This limits access to those who can travel or live in the right area.Funding is becoming less available with fewer types of case being eligible with some types of case there is the alternative of a conditional fee agreement such as personal injury but it is very difficult to get for a divorce unless there is domestic violence and there is no real alternative available there for anyone with few assetsAvailability of alternative funding methods and how this affects access to justice. <p>Credit any other relevant comment(s).</p>	9	<table><tr><th>AO2 Level</th><th>AO2 Marks</th></tr><tr><td>4</td><td>8–9</td></tr><tr><td>3</td><td>6–7</td></tr><tr><td>2</td><td>4–5</td></tr><tr><td>1</td><td>1–3</td></tr></table> <p>Responses will be unlikely to achieve the following without:</p> <p>Level 4 – at least one well developed point illustrating a real ability to focus on the question. Three well-developed points should receive full marks. Both advantages and disadvantages need to be discussed for level 4 marks.</p> <p>Level 3 – if only developed points and no well-developed points maximum top Level 3 marks can be awarded</p> <p>Level 2 – a series of points with no real development.</p>	AO2 Level	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
AO2 Level	AO2 Marks														
4	8–9														
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			<p>Assessment Objective 3 – Communication and presentation</p> <p>Present logical and coherent arguments and communicates relevant material in a clear and effective manner using appropriate terminology. Reward grammar, spelling and punctuation.</p>	3	<table><tr><th>AO2 Marks</th><th>AO3 Marks</th></tr><tr><td>7–9</td><td>3</td></tr><tr><td>4–6</td><td>2</td></tr><tr><td>1–3</td><td>1</td></tr></table>	AO2 Marks	AO3 Marks	7–9	3	4–6	2	1–3	1		
AO2 Marks	AO3 Marks														
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Question		Answer	Marks	Guidance											
2	(a)	<p>Potential answers may:</p> <p>Assessment Objective 1 – Knowledge and understanding</p> <p>Demonstrate knowledge and understanding of role of juries in criminal cases:</p> <ul style="list-style-type: none">• Only used in approximately one per cent of criminal cases• In the Crown Court the jury decides whether the defendant is guilty or not guilty• They listen to the evidence and the summing up by the judge• They decide questions of fact, the judge will advise them on questions of law• At the end of the trial they retire to the jury room to discuss the case in secret• They should come to a unanimous decision if possible or a majority decision at least 10–2 if necessary• They do not have to give any reasons for their decisions. <p>Demonstrate knowledge and understanding of role of lay magistrates in criminal cases:</p> <ul style="list-style-type: none">• Magistrates’ courts try 97% of all criminal cases from start to finish• Deal with the other 3% criminal cases at least at a preliminary level with Early Administrative Hearings (remand hearings, bail applications and committal proceedings)• Deal with all summary matters – finding defendant not guilty or guilty and sentencing• Deal with plea before venue and mode of trial hearings in respect of triable either way matters. If accept jurisdiction - finding defendant not guilty or guilty and sentencing or at the end of trial sending matter to the Crown Court for sentencing• Deal with warrants and extensions to detention• Specially trained panels of magistrates deal with young offenders aged 10–17 years in Youth Court	18	<table><tr><th>AO1 Level</th><th>AO1 Marks</th></tr><tr><td>4</td><td>15–18</td></tr><tr><td>3</td><td>11–14</td></tr><tr><td>2</td><td>6–10</td></tr><tr><td>1</td><td>1–5</td></tr></table> <p>Responses will be unlikely to achieve the following without:</p> <p>Marks should be allocated according to the level of detail.</p> <p>Level 4 – to achieve Level 4 marks both the role of juries and magistrates in criminal cases need to be covered</p> <p>Level 3 - A detailed answer on only lay magistrates could achieve Level 3 marks but an answer solely on juries is very unlikely to merit more than Level 2 marks even if it is detailed.</p> <p>Lists without any description will attract limited credit.</p>	AO1 Level	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5	
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4	15–18														
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Question			Answer	Marks	Guidance
			<ul style="list-style-type: none">Sit with judge in Crown Court to hear appeals from the Magistrates' Court. <p>Credit any other relevant point(s).</p>		

Question		Answer	Marks	Guidance											
	(b)*	Potential answers may:	9	<table><tr><th>AO2 Level</th><th>AO2 Marks</th></tr><tr><td>4</td><td>8–9</td></tr><tr><td>3</td><td>6–7</td></tr><tr><td>2</td><td>4–5</td></tr><tr><td>1</td><td>1–3</td></tr></table>		AO2 Level	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
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		<p>Assessment Objective 2 – Analysis, evaluation and application</p> <p>Discuss the advantages of using lay magistrates in criminal cases:</p> <ul style="list-style-type: none">• Good cross section of society sitting on the bench when compared to judges. Lord Chancellor points out that the magistracy is diverse in terms of occupation, gender equality and good representation of ethnic minorities. However lay magistrates tend to be older than judges• There are three lay magistrates making a decision rather than one judge. This means that there is less likely to be prejudiced• Public involvement in the criminal justice system, sign of a democracy – not just the state charging, convicting and sentencing. Lay magistrates are able to express society's disapproval of defendant's actions when they convict• Local knowledge. Lay magistrates must live or work in the local justice area. This, in theory means that they should have awareness of local events, local patterns of crime and local opinions which a judge is unlikely to have. This ensures local justice is dispensed by local people. However, most magistrates come from professional and managerial classes and it is questioned whether these people do actually have any real knowledge of the problems in certain areas of the justice system eg poorer areas• Magistrates' training has improved over the years. Training is now detailed and closely supervised by the Magistrates' Committee of the Judicial Studies Board. This means that all lay magistrates follow the same syllabus and must achieve the same competencies. This in turn leads to less inconsistency in sentencing. If they need any legal advice during a case a legal adviser is on hand at all times		<p>Responses will be unlikely to achieve the following without:</p> <p>Level 4 - A Level 4 response will require at least one well developed point illustrating a real ability to focus on the question (the advantages of using lay magistrates in criminal cases). Three well developed points should receive full marks</p> <p>Level 3 - If there are only developed points and no well-developed points maximum top Level 3 marks can be awarded</p> <p>Level 2 - A series of points with no real development can only be awarded top Level 2 marks</p> <p>The question is focused on the advantages but credit should be given for the development of points which counter these.</p> <p>Be careful to credit only up to a VWDP for one point. Some candidates may put the same point in several different ways and this should only be credited once.</p> <p>There will be no credit for any discussion relating to the use of lay magistrates in civil cases. Credit will also be given for a discussion of the advantages of using lay magistrates instead of jury trial.</p>											

Question			Answer	Marks	Guidance								
			<ul style="list-style-type: none">There are relatively few appeals against magistrates' decisions. This demonstrates that despite the amateur status of lay magistrates they do a very good job. Very few cases are appealed against conviction or on an error in law. However, one argument against this may be that a person appealing from the Magistrates' Courts risks having their sentence increasedLay magistrates are unpaid and are therefore cheap for the government. It would take several District Judges (Magistrates Court) to replace lay magistrates and this would cost the government an enormous amount of money. Also they would need to find sufficient qualified lawyers to do the jobLay magistrates work part time – they are only required to commit to 26 half days per year. They are not sitting in court everyday seeing the same types of cases and defendants. This means that they are not as case-hardened as judges. <p>Credit any other relevant comment(s).</p>										
			Assessment Objective 3 – Communication and presentation Present logical and coherent arguments and communicates relevant material in a clear and effective manner using appropriate terminology. Reward grammar, spelling and punctuation.	3	<table><tr><th>AO2 Marks</th><th>AO3 Marks</th></tr><tr><td>7–9</td><td>3</td></tr><tr><td>4–6</td><td>2</td></tr><tr><td>1–3</td><td>1</td></tr></table>	AO2 Marks	AO3 Marks	7–9	3	4–6	2	1–3	1
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Question		Answer	Marks	Guidance										
3	(a)	<p>Potential answers may:</p> <p>Assessment Objective 1 – Knowledge and understanding</p> <p>Education and training of solicitors</p> <ul style="list-style-type: none">• Academic: law degree (6 core subjects), or other degree followed by one year conversion course on core subjects (CPE/GDL)• Vocational: 2 Stage Legal Practice Course. Stage 1 - core practice areas and course skills. Stage 2 - three elective modules. LPC entails practical training with emphasis on skills such as client-interviewing, negotiation, drafting documents, business management and advocacy• Practical: 2 years working in a solicitors' office, paid but working under supervision This can also be undertaken in the CPS or local authority legal departments• Solicitors, once admitted to the roll can apply for the higher courts qualification. There will be the need to complete an assessment designed to measure advocacy competence. Separate awards for criminal and civil advocacy.• 20 day Professional Skills Course• Continuing education once qualified• Must register with SRA. <p>Credit will be given for details of training and for the ILEX route.</p> <p>Work</p> <ul style="list-style-type: none">• Most who qualify will usually work in private practice in a solicitor's firm but may work for CPS or local government or in the legal departments of large businesses• Multi-disciplinary partnerships• Work is likely to involve interviewing clients, advising on a range of legal topics, such as housing, consumer problems and family problems• Negotiation on behalf of client with other parties is likely to be undertaken including writing letters for clients, drawing up wills, drafting contracts and conveyancing	18	<table><tr><th>AO1 Level</th><th>AO1 Marks</th></tr><tr><td>4</td><td>15–18</td></tr><tr><td>3</td><td>11–14</td></tr><tr><td>2</td><td>6–10</td></tr><tr><td>1</td><td>1–5</td></tr></table> <p>Responses will be unlikely to achieve the following without:</p> <p>Level 4 – a detailed description of the education, training and the work of solicitors. Detail on 2 stage LPC is not required for Level 4</p> <p>Level 3 – an adequate description of both training and work or a good description of one accompanied by a limited description of the other. If only the training or work is covered it is not possible to award more than top Level 2/bottom Level 3</p> <p>Level 3 marks depending on the quality of the answer. An answer on only half the question would have to be very detailed to merit a Level 3 mark</p> <p>Level 2 – a limited description of both training and work or a good or adequate description of one</p> <p>Level 1 – a very limited description</p> <p>Marks should be allocated according to the level of detail.</p> <p>Responses which include a diagram of the training are perfectly acceptable and should be marked in the same way as a prose answer taking the level of detail into account.</p> <p>Lists without any description will attract limited credit.</p>	AO1 Level	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5
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Question			Answer	Marks	Guidance
			<ul style="list-style-type: none">• Advocacy in both criminal and civil matters• Various business models such as partnerships, LLPs, and most recently ABSs• Business and corporate, public law work. <p>Credit any other relevant point(s).</p>		

Question		Answer	Marks	Guidance											
	(b)*	<p>Potential answers may:</p> <p>Assessment Objective 2 – Analysis, evaluation and application</p> <ul style="list-style-type: none">• Difficulty in finding a training contract prevents many from completing their training however the law degree itself does provide opportunities for work in many other careers• Costs put off many able candidates especially with the scarcity of training contracts as large debts accrue with no guarantee of being able to complete the training - aggravated by recession• Difficulties lead to only those with financial backing being able to qualify, excluding some of those who are as able as those who can afford it• Many newly qualified lawyers have accrued large debts but the ILEX route can overcome this problem and as they are already qualified as a Legal Executive they will probably find it easier to get a training contract• CPE criticised as insufficient grounding in law which can make it hard to access good training contracts and jobs• CPE covers a lot in one year so can cause student drop out due to challenging workloads but this might be a good preparation for the workload to be expected when qualified.• Choice to become a barrister or solicitor has to be made too early• Little sign that challenges are deterring people• Over supply of candidates at all stages especially post LPC and admission where students have already made a huge financial investment to specialise• Increase in part-time and distance learning; bursaries and sponsorships; government apprenticeships; bank loans. <p>Credit any other relevant comment(s).</p>	9	<table><tr><th>AO1 Levels</th><th>AO1 Marks</th></tr><tr><td>4</td><td>8–9</td></tr><tr><td>3</td><td>6–7</td></tr><tr><td>2</td><td>4–5</td></tr><tr><td>1</td><td>1–3</td></tr></table> <p>Responses will be unlikely to achieve the following without:</p> <p>Level 4 – at least one well developed point illustrating a real ability to focus on the question (whether many able candidates are put off by the problems encountered in training). Three well-developed points should receive full marks. Reference to the quote is needed for Level 4 marks</p> <p>Level 3 – only developed points and no well-developed points maximum top Level 3 marks can be awarded</p> <p>Level 2 – a series of points with no real development</p> <p>Be careful to credit only up to a VWDP for one point. Some candidates may put the same point in several different ways and this should only be credited once.</p> <p>As the issue of costs is so large and diverse it can be credited again if linked to the problem of debt.</p>	AO1 Levels	AO1 Marks	4	8–9	3	6–7	2	4–5	1	1–3	
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1–3	1													

Question		Answer	Marks	Guidance											
4	(a)	<p>Potential answers may:</p> <p>Assessment Objective 1 – Knowledge and understanding</p> <p>Custodial sentences available for young offenders:</p> <ul style="list-style-type: none">• Detention at Her Majesty's Pleasure for murder if offender is 10–17 years old. An indeterminate sentence the judge will recommend a minimum term.• Young Offender's Institutions for offenders aged 18–20 21 days – maximum for the offence Transferred to adult prison if reaches 21• Detention and training orders for offenders aged 12–21 only for persistent offenders if aged under 15 years old 4 months–24 months• Detention for serious crimes available for very serious crimes allowing a young person to be detained for longer – up to the maximum for the offence <p>Community sentences available for young offenders:</p> <ul style="list-style-type: none">• The Youth Rehabilitation Order brought in by the Criminal Justice and Immigration Act 2008 includes a range of 18 requirements that can be attached to it. Similar to the Community Order but for 10–18 year olds• Activity requirement• Attendance Centre requirement• Supervision requirement (supervision by local social services, a probation officer or a member of the Youth Offending Team)• Unpaid work requirement if 16 years old or over on conviction• A programme requirement• An education requirement• A local authority residence requirement• Mental health treatment requirement• Drug testing requirement.	18	<table><tr><th>AO1 Levels</th><th>AO1 Marks</th></tr><tr><td>4</td><td>15–18</td></tr><tr><td>3</td><td>11–14</td></tr><tr><td>2</td><td>6–10</td></tr><tr><td>1</td><td>1–5</td></tr></table> <p>Responses will be unlikely to achieve the following without:</p> <p>Level 4 – a description of 2 or 3 custodial sentences, the Youth Rehabilitation Order with 2 or 3 requirements and a description of fines and something else is required for full marks. If either fines or other sentences are omitted it is still possible to get into Level 4</p> <p>Level 3 – a description of only custodial sentences and community sentences could reach the top of Level 3. A description of only one or two custodial and community requirements and fines or other sentences is likely to reach Level 3</p> <p>Level 2 – a limited description of two types of sentence or a good or adequate description of one if only custodial or community sentences are described no more than Level 2 marks can be awarded</p> <p>Level 1 – very limited description</p> <p>Marks should be allocated according to level of detail. A maximum of 3 marks can be allocated to a description of any one sentence. Lists without any description will attract limited credit.</p>	AO1 Levels	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5	
AO1 Levels	AO1 Marks														
4	15–18														
3	11–14														
2	6–10														
1	1–5														

Question			Answer	Marks	Guidance
			<p>Fines and other sentences</p> <ul style="list-style-type: none"> Fines – will depend upon the defendant's age 10–13 years max £250 14–17 years max £1 000 over 18 years same as adult A.S.B.O. Discharges, Reprimands and Warnings. <p>Mention of Parental Responsibility and Youth Offending Teams will also be credited.</p> <p>Credit any other relevant point(s).</p>		

Question		Answer	Marks	Guidance											
	(b)*	<p>Potential answers may:</p> <p>Assessment Objective 2 – Analysis, evaluation and application</p> <ul style="list-style-type: none">• Custodial sentences are likely to prevent a young offender from committing crimes whilst they are detained but many reoffend when they are released. For those that do not reoffend it could be said to be successful in preventing crime• All the requirements that can be attached to a Youth Rehabilitation Order are aimed at preventing further offending and the fact that it is possible to mix and match allows the court to pick the most appropriate for each offender• A curfew requirement should prevent a young person from further offending in the short term as it makes it difficult to offend without getting caught• A supervision requirement may help prevent offending so long as the person supervising has a reasonable workload. If they have too many people to supervise it is not very effective• Any of the requirements that deal with substance abuse may be effective in preventing further offending but only if the young person wants to give up the drugs or alcohol• Reparation Order aimed at making the young offender realise the impact of their offending and empathise with the victim which could prevent further offending• Fines do not tend to be very successful as it is often the parents who pay the fine. <p>Credit any other relevant comment(s).</p>	9	<table><tr><th>AO2 Levels</th><th>AO2 Marks</th></tr><tr><td>4</td><td>8–9</td></tr><tr><td>3</td><td>6–7</td></tr><tr><td>2</td><td>4–5</td></tr><tr><td>1</td><td>1–3</td></tr></table> <p>Responses will be unlikely to achieve the following without:</p> <p>Level 4 – at least one well developed point illustrating a real ability to focus on the question and discuss the arguments referring to different types of sentence. Three well-developed points should receive full marks</p> <p>Level 3 – if only developed points and no well-developed points then maximum top Level 3 marks can be awarded</p> <p>Level 2 – a series of points with no clear development</p>	AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3	
AO2 Levels	AO2 Marks														
4	8–9														
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Question			Answer	Marks	Guidance									
			Assessment Objective 3 – Communication and presentation Present logical and coherent arguments and communicate relevant material in a clear and effective manner using appropriate legal terminology. Reward grammar, punctuation and spelling.	3	<table><tr><th>AO2 Marks</th><th>AO3 Marks</th></tr><tr><td>7–9</td><td>3</td></tr><tr><td>4–6</td><td>2</td></tr><tr><td>1–3</td><td>1</td></tr></table>	AO2 Marks	AO3 Marks	7–9	3	4–6	2	1–3	1	
AO2 Marks	AO3 Marks													
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Question		Answer	Marks	Guidance											
5	(a)	<p>Potential answers may:</p> <p>Assessment Objective 1 – Knowledge and understanding</p> <p>Describe the appeals from the County Court:</p> <ul style="list-style-type: none">• Small claims appeals – the appeal is heard by the next judge up in the hierarchy from the judge who initially heard the case• Fast track cases – dealt with by a District Judge the appeal will be heard by a Circuit Judge• Fast track cases dealt with by a Circuit Judge the appeal is heard by a High Court Judge• Second appeals to the Court of Appeal for fast track cases only in exceptional cases where the Court of Appeal considers there is an important point of principle or practice or there is some other compelling reason• Final decisions in multi-track cases – heard in the County Court the appeal is to the Court of Appeal. <p>Describe the appeals from the High Court:</p> <ul style="list-style-type: none">• From the High Court the appeal usually goes to the Court of Appeal (Civil Division)• Possible leapfrog appeal directly to the Supreme Court if “statutory interpretation or precedent” is involved or the Court of Appeal is bound by one of its own previous decisions. <p>Further appeals:</p> <ul style="list-style-type: none">• From a decision in the Court of Appeal there is further appeal to the Supreme Court on a point of law with leave either from the Court of Appeal or the Supreme Court• A point of European law may be referred to the Court of Justice of the European Union for clarification for any court under Article 267 of the Treaty for the Functioning of the European Union TFEU <p>Credit any other relevant point(s).</p>	18	<table><tr><th>AO1 Level</th><th>AO1 Marks</th></tr><tr><td>4</td><td>15–18</td></tr><tr><td>3</td><td>11–14</td></tr><tr><td>2</td><td>6–10</td></tr><tr><td>1</td><td>1–5</td></tr></table> <p>Responses will be unlikely to achieve the following without:</p> <p>Level 4 - Appeals from each of the tracks and further appeals need to be described in detail for Level 4 marks</p> <p>Level 3 - If further appeals are not covered no more than mid-Level 3 marks should be awarded</p> <p>Marks should be allocated according to the level of detail.</p> <p>Detailed diagrams will be credited in the same way as prose.</p> <p>Lists without any description will attract limited credit.</p>	AO1 Level	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5	
AO1 Level	AO1 Marks														
4	15–18														
3	11–14														
2	6–10														
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Question		Answer	Marks	Guidance											
	(b)*	<p>Assessment Objective 2 – Analysis, evaluation and application</p> <p>Identifying the significance of having a track system – proportionality</p> <p>Advantages of the track system:</p> <ul style="list-style-type: none">• Case management has improved matters including the allocation of tracks• The rate of settlement prior to the case being heard does appear to have improved reaching almost 80% in some areas• In fast track cases the time of the trial is limited with limitations on expert witnesses does this lead to justice? <p>Disadvantages of the track system:</p> <ul style="list-style-type: none">• Costs have increased overall due to the front-loading of costs for all the tracks• There are mixed views about whether delays have been reduced. Fast track cases can still take 48 weeks to get to trial which can hardly be called “fast”, but is faster than before the reforms, and even small claims can take 29 weeks to be heard. Multi track cases can still sometimes take years to get to court• There has been little increase in the use of ADR and judges rarely stay cases for mediation• The courts are still under resourced with IT systems regarded as primitive in comparison with private practice. <p>Credit any other relevant comment(s).</p>	9	<table><tr><th>AO2 Levels</th><th>AO2 Marks</th></tr><tr><td>4</td><td>8–9</td></tr><tr><td>3</td><td>6–7</td></tr><tr><td>2</td><td>4–5</td></tr><tr><td>1</td><td>1–3</td></tr></table> <p>Responses will be unlikely to achieve the following without:</p> <p>Level 4 - A level 4 response will require at least one well developed point illustrating a real ability to discuss the advantages and disadvantages of the track system. Three well developed points would achieve full marks</p> <p>Level 3 - If there are only developed points and no well-developed points maximum top level 3 marks can be awarded</p> <p>Level 2 - A series of points with no real development can only be awarded top level 2 marks</p>	AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3	
AO2 Levels	AO2 Marks														
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		<p>Assessment Objective 3 – Communication and presentation</p> <p>Present logical and coherent arguments and communicate relevant material in a clear and effective manner using appropriate legal terminology. Reward grammar, punctuation and spelling.</p>	3	<table><tr><th>AO2 Marks</th><th>AO3 Marks</th></tr><tr><td>7–9</td><td>3</td></tr><tr><td>4–6</td><td>2</td></tr><tr><td>1–3</td><td>1</td></tr></table>	AO2 Marks	AO3 Marks	7–9	3	4–6	2	1–3	1			
AO2 Marks	AO3 Marks														
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Question		Answer	Marks	Guidance											
6	(a)	<p>Potential answers may:</p> <p>Assessment Objective 1 – Knowledge and understanding</p> <p>Demonstrate a clear understanding of the Bail Act 1976 and subsequent amendments in the Bail (Amendment) Act 1993, the Crime and Disorder Act 1998 and the Criminal Justice Act 2003:</p> <ul style="list-style-type: none">Identify that there is a general right to bail and that bail enables a defendant to remain at liberty until the next stage of their caseShow a clear understanding that the police, magistrates and Crown Court can grant bail. <p>Restrictions – Identify that there is a presumption in favour of bail however:</p> <ul style="list-style-type: none">For an offence committed while already on bail, bail can only be given if the court is satisfied there is no significant risk of further offendingBail will only granted in exceptional circumstances for murder, attempted murder, manslaughter, rape or attempted rape if the defendant has already served a custodial sentence for such a crimeBail will be restricted for adult Class A drug users under the Criminal Justice Act 2003 in certain circumstances.Bail can only be granted in a murder case in the Crown Court <p>Identify the reasons for refusing bail:</p> <ul style="list-style-type: none">Failure to surrender to custodyLikely to commit further offencesInterfere with witnesses/the course of justice. <p>Identify the factors to be taken into account including:</p> <ul style="list-style-type: none">Nature and seriousness of offencePrevious convictionsAntecedents of defendantPrevious bail recordStrength of evidence against defendant.	18	<table><tr><th>AO1 Level</th><th>AO1 Marks</th></tr><tr><td>4</td><td>15–18</td></tr><tr><td>3</td><td>11–14</td></tr><tr><td>2</td><td>6–10</td></tr><tr><td>1</td><td>1–5</td></tr></table> <p>Responses will be unlikely to achieve the following without:</p> <p>Level 4 - A Level 4 response should include a definition of bail, the general right to bail, reasons to refuse bail, factors to be taken into account and a description of unconditional and conditional bail</p> <p>Only one or two examples of conditions are necessary. An answer going into great detail of many possible conditions will still not gain more than 3 marks for conditions</p> <p>An answer is likely to only be able to reach Level 3 if there are any of these central points are missing.</p> <p>Marks should be awarded depending on the breadth and detail of the answer.</p> <p>Lists without any description will attract limited credit.</p>	AO1 Level	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5	
AO1 Level	AO1 Marks														
4	15–18														
3	11–14														
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1	1–5														

Question			Answer	Marks	Guidance
			<p>Identify unconditional and conditional bail including possible conditions:</p> <ul style="list-style-type: none">• Unconditional bail where the only condition is to turn up at court on the appointed date• Conditions appropriate for the suspect such as surrendering passport, reporting to a police station, curfew with electronic tag, residing at a specified address or any other examples of conditions. <p>Credit any other relevant point(s).</p>		

Question		Answer	Marks	Guidance											
(b)*		Assessment Objective 2 – Analysis, evaluation and application	9	<table><tr><th>AO2 Level</th><th>AO2 Marks</th></tr><tr><td>4</td><td>8–9</td></tr><tr><td>3</td><td>6–7</td></tr><tr><td>2</td><td>4–5</td></tr><tr><td>1</td><td>1–3</td></tr></table>		AO2 Level	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
		AO2 Level		AO2 Marks											
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3	6–7														
2	4–5														
1	1–3														
		<ul style="list-style-type: none">The nature and seriousness of the offence will be a consideration. As Polly has been charged with the serious offence of murder the court will need to consider whether the public need protection from a potentially dangerous person therefore she may not receive bail. However, assisted suicide may not warrant protection of the publicAs Polly has one previous conviction for theft the likelihood of her re-offending whilst on bail will need to be considered. However as the previous conviction was many years ago and unrelated to this crime she is likely to be granted bailThe fact that Polly previously complied with her bail conditions would mean that there is no reason to think that she will not do the same again and therefore bail is likely to be grantedThe fact that Polly has no ties in the area and has family in Australia would mean that she is likely to be considered at risk of absconding before the trial. For this reason it may be decided not to grant Polly bailConditions could be attached to her bail to enable bail to be granted for example a curfew, surrender of her passport, condition of residence and reporting to the police stationSomeone accused of murder must see two mental health professionals before being granted bail. <p>Credit will be given for mention of any other relevant factors or conditions. Credit any other relevant comment(s).</p>		<p>It is important to keep in mind that this is an application question. Points need to be applied to the situation Identification of a relevant point should be awarded a P for a point. An applied point (AP) should be awarded if a point is applied to the situation given</p> <p>P = 1 mark AP = 2 marks</p> <p>If there is no application but relevant points (i.e. just Ps) have been identified only top level 2 marks can be awarded as the criteria for level 3 will not have been met</p> <p>“Polly” or “she” or “D” needs to be mentioned to get out of level 2 as this is an application question</p> <p>Five of the following points need to be considered and an applied point (worth 2 marks) is available for each – still max 9 marks in total</p> <ol style="list-style-type: none">1) Nature and seriousness of the offence2) Previous convictions3) Previously complied with bail4) Ties to area – family in Australia5) Condition with reasons6) Condition with reasons7) (Mental health professionals check can also be credited)											

Question			Answer	Marks	Guidance									
			Assessment Objective 3 – Communication and presentation Present logical and coherent arguments and communicate relevant material in a clear and effective manner using appropriate legal terminology. Reward grammar, punctuation and spelling.	3	<table><tr><th>AO2 Marks</th><th>AO3 Marks</th></tr><tr><td>7–9</td><td>3</td></tr><tr><td>4–6</td><td>2</td></tr><tr><td>1–3</td><td>1</td></tr></table>	AO2 Marks	AO3 Marks	7–9	3	4–6	2	1–3	1	
AO2 Marks	AO3 Marks													
7–9	3													
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Question		Answer	Marks	Guidance											
7	(a)	<p>Potential answers may:</p> <p>Assessment Objective 1 – Knowledge and understanding</p> <p>Demonstrate knowledge of the rights set out under the Police and Criminal Evidence Act 1984 as amended by the Serious Organised Crime and Police Act 2005 and the Criminal Justice Act 2003 and the Codes of Practice</p> <p>Police Powers to detain a suspect at the police station:</p> <ul style="list-style-type: none">• Where a person arrested on suspicion of a summary (less serious) offence then the police can only detain them for a maximum of 24 hour• Where a person has been arrested on suspicion of an indictable (a more serious offence) then the police can detain for a further 12 hours (total of 36) with permission of a senior officer (superintendent or above)• To detain a person beyond 36 hours for an indictable offence, the police must apply to the Magistrates' Court. The magistrates can order detention up to a maximum total of 96 hours• In cases where the suspect has been arrested for terrorism offences. The detention may be extended to 14 days by a magistrate. <p>Individual rights during Detention:</p> <ul style="list-style-type: none">• The right to have a custody officer monitor detention and keep a custody record to ensure the Codes of Practice are adhered to• The right to have someone informed of the detention• If under the age of 17 or suffering any mental illness or retardation the right to have a person 'responsible for his welfare' informed of the arrest• The right to consult the Codes of Practice• The right to legal advice (which is free) although this is usually limited to telephone advice and being allowed to consult privately with a solicitor.	18	<table><tr><th>AO1 Level</th><th>AO1 Marks</th></tr><tr><td>4</td><td>15–18</td></tr><tr><td>3</td><td>11–14</td></tr><tr><td>2</td><td>6–10</td></tr><tr><td>1</td><td>1–5</td></tr></table> <p>Responses will be unlikely to achieve the following without:</p> <p>Level 4 - For level 4 marks the candidate must give a good description of police powers and individual rights during detention and searches</p> <p>The question is on both police powers and individual rights. A response solely on the powers of the police or solely on individual rights will limit the marks to maximum Level 2 as there will not be adequate knowledge demonstrated.</p> <p>If only detention then candidate can achieve Level 3</p> <p>If only searches then maximum top Level 2</p> <p>Credit will not be given for a description of samples as that is not required by the question</p> <p>Lists without any description will attract limited credit.</p>	AO1 Level	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5	
AO1 Level	AO1 Marks														
4	15–18														
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Question	Answer	Marks	Guidance
	<ul style="list-style-type: none"> • The right to be released after 24 hours if offence is less serious unless charged • If the alleged offence is indictable the right only to be held for 36 hours but permission of a police officer of the rank of superintendent or above • If the alleged offence is indictable then the right to be held for a maximum of 96 hours but only if authorised by magistrates • In suspected terrorism cases the right to only be held for a maximum of 14 days • To right to have access to medical treatment if required • The right to be detained in an adequately heated, cleaned, lit and ventilated cell have the right to at least two light meals and one main meal in any 24 hours plus drinks • In any period of 24 hours a detainee must be given a continuous period of at least eight hours' rest. <p>Police powers to search a suspect at the police station</p> <ul style="list-style-type: none"> • Police have the power to strip search a suspect but only if necessary to remove an article which a person in detention should not be allowed to keep and there is reasonable suspicion that the person might have such an article concealed on their person • A high ranking police officer can authorise an intimate search if there is reason to believe that the person has with him an item which he could use to cause physical injury to himself or others, or that he is in possession of a Class A drug. <p>Individual rights during Searches:</p> <ul style="list-style-type: none"> • The right not to be automatically searched – this can only be done in certain circumstances • The right only to be strip searched if it is felt necessary to remove an article which a person should not have • The right to have the strip search carried out in a private place with same sex officer and only half clothing removed at any one time 		

Question			Answer	Marks	Guidance
			<ul style="list-style-type: none">The right for an intimate search to only be carried out if authorised by a high ranking officer in order to search for Class A drugs or weapons and carried out by a doctor or nurse. <p>Credit any other relevant point(s).</p>		

Question		Answer	Marks	Guidance										
	(b)*	<p>Potential answers may:</p> <p>Assessment Objective 2 – Analysis, evaluation and application</p> <ul style="list-style-type: none">• Street is a public place for the purposes of a stop and search under – Section 1 PACE and therefore this part of the stop is lawful• Running with a rucksack. Code A – reasonable suspicion. The fact that James is running with a rucksack towards a demonstration may be reasonable enough suspicion – depending whether the police have reason to suspect he has stolen or prohibited articles in his bag. Reasonable suspicion however cannot be based on matters such as age, race or personal appearance• The organised demonstration. Section 60 Criminal Justice and Public Order Act 1994 allows the police to stop and search people in anticipation of violence. Such an action needs the authorisation of a senior police officer who reasonably believes that serious violence may take place. If this is in place then the stop was lawful as no reasonable suspicion is required• Removal of the mask. The police are only allowed to remove jacket, outer coat and gloves in a public place. However, under Section 60AA Criminal Justice and Public Order Act 1994 the police have the power to ask James to remove the mask if it is reasonably believed that it being used to wholly or mainly to concealing his identity• Identification and reason. The police are required to must identify themselves, their station, give a reason for the stop and search and the object of any search. The police are therefore acting unlawfully by not giving this information• The police are only allowed to use reasonable force if necessary. There is no mention of James struggling or not co-operating therefore it may not be reasonable to ‘push’ James to the floor. <p>Credit any other relevant comment(s).</p>	9	<table><tr><th>AO2 Level</th><th>AO2 Marks</th></tr><tr><td>4</td><td>8–9</td></tr><tr><td>3</td><td>6–7</td></tr><tr><td>2</td><td>4–5</td></tr><tr><td>1</td><td>1–3</td></tr></table> <p>It is important to keep in mind that this is an application question. Points need to be applied to the situation Identification of a relevant point should be awarded a P for a point. An applied point (AP) should be awarded if a point is applied to the situation given</p> <p>P = 1 mark AP = 2 marks</p> <p>If there is no application but relevant points (i.e. just Ps) have been identified only top Level 2 marks can be awarded as the criteria for Level 3 will not have been met</p> <p>“James” or “he” or “D” needs to be mentioned to get out of level 2 as this is an application question</p> <p>The following points need to be considered and an applied point (worth 2 marks) is available for each – still max 9 marks in total</p> <ol style="list-style-type: none">1) Street2) Reasonable suspicion3) Organised demonstration4) Mask5) Identification and reason6) Reasonable force	AO2 Level	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
AO2 Level	AO2 Marks													
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			Assessment Objective 3 – Communication and presentation Present logical and coherent arguments and communicate relevant material in a clear and effective manner using appropriate legal terminology. Reward grammar, punctuation and spelling.	3	<table><tr><th>AO2 Marks</th><th>AO3 Marks</th></tr><tr><td>7–9</td><td>3</td></tr><tr><td>4–6</td><td>2</td></tr><tr><td>1–3</td><td>1</td></tr></table>	AO2 Marks	AO3 Marks	7–9	3	4–6	2	1–3	1	
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Advanced Subsidiary GCE Law Levels of Assessment

There are **four** levels of assessment of AOs 1 and 2 in the AS units. Level 4 is the highest level that can reasonably be expected from a candidate at the end of the first year of study of an Advanced GCE course. Similarly, there are **three** levels of assessment of AO3 in the AS units.

Level	Assessment Objective 1	Assessment Objective 2	Assessment Objective 3 (includes QWC)
4	Good, well-developed knowledge with a clear understanding of the relevant concepts and principles. Where appropriate candidates will be able to elaborate by good citation of relevant statutes and case-law.	Ability to identify and analyse issues central to the question showing some understanding of current debate and proposals for reform or identify most of the relevant points of law in issue. Ability to develop clear arguments or apply points of law clearly to a given factual situation, and reach a sensible and informed conclusion.	
3	Adequate knowledge showing reasonable understanding of the relevant concepts and principles. Where appropriate candidates will be able to elaborate with some citation of relevant statutes and case-law.	Ability to analyse most of the more obvious points central to the question or identify the main points of law in issue. Ability to develop arguments or apply points of law mechanically to a given factual situation, and reach a conclusion.	A good ability to present logical and coherent arguments and communicates relevant material in a clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.
2	Limited knowledge showing general understanding of the relevant concepts and principles. There will be some elaboration of the principles, and where appropriate with limited reference to relevant statutes and case-law.	Ability to explain some of the more obvious points central to the question or identify some of the points of law in issue. A limited ability to produce arguments based on their material or limited ability to apply points of law to a given factual situation, but without a clear focus or conclusion.	An adequate ability to present logical and coherent arguments and communicates relevant material in a reasonably clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.
1	Very limited knowledge of the basic concepts and principles. There will be limited points of detail, but accurate citation of relevant statutes and case-law will not be expected.	Ability to explain at least one of the simpler points central to the question or identify at least one of the points of law in issue. The approach may be uncritical and/or unselective.	A limited attempt to present logical and coherent arguments and communicates relevant material in a limited manner using some appropriate legal terminology. Reward grammar, spelling and punctuation.

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